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### **YOU DON'T SAY...**

"Given the choice between the people or the legislature selecting judges, I'll go with the people every time."

*Gov. Roy Cooper, on the selection of the judiciary.*

THE NEWS & OBSERVER, 9/15/17

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## **News Summary**

### **Lobbyist Investigation**

Investigators with the N.C. Secretary of State's office are looking into allegations that a Raleigh attorney lobbied for several companies in the bail bonds industry without properly registering as a lobbyist.

Search warrants released last week detail an investigation into whether Mark Bibbs committed lobbying violations in 2016 on behalf of N.C. Bail Academy, Rockford-Cohen Group, All American Bail Bonds and Cannon Surety. A complaint about Bibbs' activities was filed by Robert Brawley, a former state legislator and Republican candidate for governor who is a partner in the Cannon Surety business. Brawley says Bibbs wasn't authorized to lobby for the business, but another person representing the business said he'd hired Bibbs.

Reached by the Insider last week, Bibbs referred questions to his attorney, Rusty DeMent. DeMent said he would make a statement about the case but had not done so by Friday afternoon. In

emails from Bibbs included in the search warrants, he says he was unaware his 2015 lobbyist registration didn't apply to the second year of the 2015-2016 legislative session. The search warrants say Bibbs had lobbied legislators in 2016 to oppose Senate Bill 508, which made changes to bail bonds regulations and expanded the insurance commissioner's power to discipline bail bondsmen. The bill passed the House and Senate and was signed into law by then-Gov. Pat McCrory in July 2016. The search warrants allowed investigators to review bank account records for Bibbs and the businesses he allegedly lobbied for; the investigators have so far found checks to Bibbs from the businesses, but the checks don't include details of their purpose. Another complaint against Bibbs was filed by Mark Cartret of Agent Associates Insurance, another business related to bail bonds. Cartret said he spoke with Bibbs about his relationship with Brawley, and Bibbs "became irate, calling Brawley senile and stating he would have Brawley locked up and reviewed for mental incapacitation if he 'f\*\*\*\*\*' with him," according to the search warrant. Bibbs ran unsuccessfully as a Democrat for N.C. House in the Wilson area in 2012 and 2014. He has close ties to former Insurance Commissioner Wayne Goodwin -- now the chairman of the N.C. Democratic Party -- according to a series of text messages obtained by WBTV in Charlotte, which published a lengthy article in August detailing the lobbying allegations against Bibbs. Goodwin is not mentioned in the search warrants, and the text messages don't reference the bail bonds legislation; but in July 2015, Bibbs asked the insurance commissioner to meet with him because "I've come into something that may be harmful to you." Through a Democratic Party spokesman, Goodwin declined to comment on his relationship with Bibbs. Last September, the Secretary of State's investigators successfully sought to have the search warrants sealed because the release of the documents could "jeopardize" the probe "and possibly result in evasive actions by the subjects of the investigation." The warrants were unsealed and released last week. (Colin Campbell, THE INSIDER, 9/18/17).

### **Gerrymandering Defense**

Josh Stein, North Carolina's attorney general, has delegated oversight of his office's defense of state redistricting maps to two career attorneys so he can speak out publicly against partisan gerrymandering. "In a democracy, voters should choose their elected representatives, not the other way around," Stein said in a statement released Friday. "Partisan gerrymandering turns this fundamental principle upside down. It rigs the system against the voters in favor of the politicians who draw their own districts. Partisan gerrymandering undermines democracy itself. It's wrong and damaging, no matter which party does it." Stein's office has assisted legislators in defense of the various redistricting cases alongside private lawyers hired by the General Assembly. They did so when Gov. Roy Cooper was the state attorney general, and have continued in their role after Cooper was elected governor in 2016. Stein delegated his oversight authority and responsibility for the state Department of Justice's defense of the maps to Grayson Kelley, chief deputy attorney general. Kelley will oversee the department's representation and supervise its attorneys. Alec McC. Peters, senior deputy attorney general for special litigation, has been lead counsel on three of the cases and will continue to have an active role.

"To avoid any questions about the professionalism of the department's representation of the state in cases involving claims of political gerrymandering, I have delegated my oversight authority for the Department's defense of those cases to career attorneys," Stein said. "I have taken this action because this is no ordinary disagreement over policy. As Attorney General, I have defended and will continue to defend laws without regard to whether I agree with them as a matter of policy. But partisan gerrymandering goes to the heart of the health of our democracy, and I will speak out publicly on this critical issue."

House Speaker Tim Moore and Senate leader Phil Berger released a statement Friday on Stein's plans. "The maps passed by the General Assembly are not gerrymanders," the Republican legislative leaders said. "If Josh Stein's partisan political bias has blinded him to the fact that our maps abide by the strictest anti-gerrymandering standards in the entire country, then perhaps it's best that he is personally recusing himself. He should have done the same with his clear conflict of interest in the Voter ID case." (Anne Blythe, THE NEWS & OBSERVER, 9/15/17).

## **District Boundaries**

Illegal and unconstitutional boundaries remain within North Carolina's new state legislative districts, lawyers who sued successfully over the old maps told federal judges Friday while asking for another redraw.

In a court filing, the lawyers for voters found fault with 12 General Assembly House and Senate districts in the maps approved by legislative Republicans two weeks ago. The judges should redraw the boundaries in the areas where the districts are located using alternatives the plaintiffs offered to legislators last month, or send the job to a third-party expert, the filing says. "What we filed today is no different from what we told the General Assembly before they passed these new districts," Anita Earls, one of the voters' attorneys from the Southern Coalition for Social Justice, said in a news release. "It is now the court's responsibility to fix the problem." GOP legislators argue they cured the problems the judges previously found with the 2011 maps which, like the new maps, favor Republicans. The 2011 maps helped the GOP expand its majorities, leading to passage of a conservative agenda in state government.

The judges also could sign off on all of the district boundaries for use in the 2018 elections.

Attorneys for state legislative leaders have another week to rebut Friday's objections. It's unclear when the judges will rule.

The same judges last year threw out 19 House and nine Senate districts as illegal gerrymanders because GOP leaders failed to justify using race as the predominant factor in drawing them.

Following a U.S. Supreme Court ruling in June affirming their decision, the lower-court judges ordered new maps be approved by Sept. 1.

The number of districts in which blacks represent more than 50 percent of voters fell markedly compared to the original maps. But in Friday's objections, Earls and colleague Eddie Speas contended the boundaries still contain four districts that illegally separate black and white voters, while boundaries for eight other districts also violate the state Constitution. Of the four where racial bias is still being alleged, only two have majority-black populations, a House district and Senate district in Guilford County. The other two -- a Senate district in Hoke and Cumberland counties and House district in Sampson and Wayne counties -- remain irregularly shaped and continue to be packed with black voters, Friday's filing says.

Republican redistricting leaders specifically approved rules that left out the use of the racial data of the electorate when fashioning the new boundaries. But in Friday's objections, the voters' lawyers said the GOP's outside mapmaker was the same person who drew the 2011 maps and would know that drawing certain boundaries the same way as before would produce the same result.

"Claiming to be colorblind by not looking at race data is no proof that race did not predominate in the drawing of a legislative district," Speas and Earls wrote.

The lawyers also objected to five House districts -- four in and around Raleigh and one in south Charlotte -- they said weren't required to be redrawn because they failed to touch any of the 28 districts originally struck down. That violates the state Constitution's prohibition on mid-decade redistricting, they wrote.

Friday's filing also says three other districts -- a Senate district in Mecklenburg County, a House district in Cabarrus and Rowan counties, and a House district in Johnston, Wayne and Greene counties -- violated a state constitutional directive designed to minimize district boundaries crossing county lines. (Gary D. Robertson, THE ASSOCIATED PRESS, 9/15/17).

## **Judges Selection**

Gov. Roy Cooper is raising concerns about the discussion going on in the General Assembly about changing how judges get to the bench in North Carolina, either through expansive alteration of the districts used to elect judges or abandoning the election system for an appointment process. This week, Rep. Justin Burr, R-Stanly, opened a House judiciary redistricting committee meeting with the current maps used for electing judges and district attorneys around the state. At that meeting, there was more discussion about changing how judges are chosen than about the first sweeping overhaul of judicial maps in 62 years.

For the past several months, Burr has been traveling the state presenting his plans for changing the election districts, maps that Democrats say will be drawn with the goal of putting more



Republicans on the bench. Burr says they would correct piecemeal tweaks made over the years and make the courts more efficient.

While that has been going on, Jim Blaine, chief of staff for Senate leader Phil Berger, R-Rockingham, has been talking with judges and others about a different idea -- a state constitutional amendment that, if adopted by voters, would turn over the appointment of judges to a select few. The details of how such a system would work have not been presented to the public. N.C. Chief Justice Mark Martin, a Republican, has also proposed asking the voters whether the state should appoint judges or continue to elect them.

Nearly a third of the states have adopted what is described as "assisted appointment" to select judges, but the models vary from state to state as to who makes the appointments and to which courts the system applies. In some states such as Virginia, legislators play a key role in appointments. In other states, the governor does. Some states use commissions.

"Given the choice between the people or the legislature selecting judges, I'll go with the people every time," Cooper said in a statement Thursday night sent in response to a question from The News & Observer. "The legislature has enough power over the judiciary, and this attempt to change how judges are put on the bench is just the legislature's latest effort to rig the courts.

After the courts have overturned more than a dozen of their unconstitutional laws, allowing legislators to influence the selection of judges is not in the best interest of North Carolinians."

Burr has scheduled a Tuesday meeting for further discussion on judicial maps. The lawmaker and bail bondsman has said he thought new maps and a proposed amendment to the state Constitution could move forward on parallel tracks.(Anne Blythe, THE NEWS & OBSERVER, 9/15/17).

## **Benefit Repayments**

Carla Shuford thought a call from the state treasurer's office telling her to look for an important letter was a hoax, but the reality hit her the next day with a notice that the state had been putting too much in her disability checks for more than 10 years, and now it planned to collect.

She is one of 60 former state employees who have to return money because audits found mistakes in their disability payments. An audit of Shuford's state Disability Income Plan benefits turned up more than \$19,000 in overpayments since 2006, according to the letter she received in June. The state had not subtracted money from her disability checks to account for the years when cost-of-living increases boosted her Social Security payments. To make the adjustments and recoup the overpayments in five years, the state cut its disability payments to the former UNC-Chapel Hill secretary by more than half.

Shuford, 74, said she didn't know how she would have handled such a sharp reduction in income. She was able to negotiate a schedule that stretches the repayment period to 10 years rather than five. "They agreed to 10 years, but it was like pulling teeth," Shuford said. State Treasurer Dale Folwell said the office is required by law to get back money when it pays out too much. "We're sorry for this lady's disability," he said. "This is something our administration didn't do. We discovered it and now we have the responsibility to fix it."

Disability payment audits started under former state Treasurer Janet Cowell, he said. Folwell, who was elected last year, said he was not sure why the disability payments were not reduced as required when Social Security payments increased, but suspects that the oversight came as changes were being made to the disability income plan, and the need to make corrections automatically was overlooked.

The letter Shuford received says an administrative error caused Social Security cost of living not to be applied after 2005. The treasurer's job was held by Democrat Richard Moore over two terms between 2001 and 2009 and then by Cowell, also a Democrat, for the next two terms before Republican Folwell took office this year. Cowell and Moore could not be reached. Shuford called state Rep. Verla Insko, D-Orange, for help. Insko said she drafted Shuford's letters to the department asking for longer repayment terms, and accompanied her to a meeting at the treasurer's office.

Overpayments aren't a new problem. A state audit report from June 2013 flagged disability overpayments as a problem, and said the treasurer's office should do more to avoid them. Ardis Watkins, a lobbyist with the State Employees Association of North Carolina, said she's been

hearing about overpayments for 25 years. "What strikes me is that so much time had gone by without anyone catching the errors," she said.

The goal is to have reasonable repayment periods when errors are found, Watkins said. "I'm hopeful moving forward we won't see these types of errors," said Watkins, who sees more emphasis in state government on accountability and following up on audits. Shuford was surprised with the news from the treasurer's office because she saw her disability checks getting smaller with Social Security increases. "I'm very careful with my figures," she said. (Lynn Bonner, THE NEWS & OBSERVER, 9/16/17).

## **Chemours Response**

Chemours late last week blasted the state's response to its chemical discharges into the Cape Fear River, accusing the Department of Environmental Quality of misleading the public about what it knew and when, as well as reacting with "inexplicable secrecy" as the company tried to work with regulators. In a letter to DEQ's in-house attorney, the company described itself as a good corporate citizen "stymied by DEQ at every turn" and exasperated by unrealistic demands. It pointed to at least two efforts going back to 2002 to turn DEQ's attention to chemical discharges similar to the ones now causing pollution concerns in the river, saying they essentially were met with silence. There's "no basis," the company's attorneys argued in the letter, for the state's accusation last week that Chemours misled regulators.

DEQ spokesman Jamie Kritzer said Friday that the agency is "focused on results" and that the administration got what it wanted last Friday when a Superior Court judge signed off on a consent order that at least partially resolves a lawsuit state regulators brought to stop Chemours from dumping even small amounts of chemicals called PFESAs into the river. Gov. Roy Cooper's office said the same, adding that "the state will continue to hold the company accountable."

Chemours' letter is dated Sept. 8 -- the same day the consent order -- and it lays out the basics of a potential legal strategy. Company attorneys wrote that the state's push to curtail discharges by threatening Chemours' permit "violates applicable law ... is unsupported by any facts or science ... and otherwise is arbitrary and capricious."

Chemours argued that the state's initial demand that the company stop discharging these chemicals within three days was inconsistent with the state Department of Health and Human Services' repeated promises that municipal water supplies drawn from the Cape Fear River remain safe to drink. Chemours said known carcinogens are allowed in North Carolina drinking water in far higher concentrations than what the state now expects for the unregulated chemicals that once flowed from the plant, even though their health risk hasn't been established. The state's dealing with the company has been so skewed, the letter states, that it violates due process rights under the 14th Amendment.

Both the House and the Senate have select committees reviewing the Cape Fear River water issues and the state's response. Sen. Trudy Wade, R-Guilford, chairwoman of the Senate committee, said Friday that the committee may delve into topics in Chemours' letter.

"Unfortunately, to date, representatives of Chemours have refused to come forward and appear publicly before any legislative committee, which is very concerning," Wade said in the statement. (Travis Fain, WRAL NEWS, 9/15/17).

## **Chemical Questions**

Residents who live near the Chemours plant in Bladen County got some of their questions answered Thursday about potentially harmful chemicals found in groundwater at the facility, but state officials acknowledged that not a lot is known about the compounds. Officials from the state Department of Environmental Quality and the Department of Health and Human Services held an information session about the chemicals -- GenX and C8. They talked briefly, then split up so residents could ask questions individually.

State officials say about 40 residences are eligible for the state tests. Nine people signed up at the meeting to have their wells tested. Nine others outside the mile limit indicated an interest in having their wells tested. One question state officials couldn't answer was the potential health effects of the chemicals. Mark Benton, deputy secretary of the Department of Health and Human Services, said there is a limited amount of information about the chemicals. He said state officials wanted to speak to the residents one-on-one.

Julie Woosley, the hazardous waste section chief in the Department of Environmental Quality's Division of Waste Management, said C8 and GenX are in a group of manmade "emerging contaminants."

"We don't have a lot of information about them," she said. "We haven't even identified all of them yet." Woosley said results from test on private wells will be helpful to state officials who are trying to determine if the chemicals are present outside the Chemours property.

Sheila Holman, the Department of Environmental Quality's assistant secretary for the environment, said the state will take the needed steps, including potential legal action, if the chemicals are discovered in private wells. Chemours officials have indicated that the company is offering bottled water to residents who live within a mile of the plant, state officials said. (Steve DeVane, THE FAYETTEVILLE OBSERVER, 9/15/17).

### **Community College President**

The North Carolina Community College System needs a new president, and the search could point close to home. On Friday, Scott Shook, the chairman of the system's governing board, said a search committee would soon be appointed and it probably won't be using a consulting firm. Search consultants are often hired to attract and screen a field of national candidates for executive positions in higher education.

The system is on the hunt for the next president after the abrupt departure of Jimmie Williamson, whose resignation was announced July 31 and takes effect at the end of this month. There was no reason given for Williamson stepping down after only a year on the job. He had come from South Carolina, where he had been president of the state's technical college system for two years and had previously led two community colleges there.

The system's chief of staff and former chief financial officer, Jennifer Haygood, will serve as acting president starting Oct. 1. On Friday, the board voted to raise Haygood's pay from \$191,000 to \$270,000 as she takes on the interim role. Williamson was hired at an annual salary of \$285,000. The system is one of the largest in the country. It has 58 colleges that provide a wide range of basic skills, degree and certificate programs and continuing education classes. In 2016-17, the system had more than 225,000 full-time equivalent students. (Jane Stancill, THE NEWS & OBSERVER, 9/15/17).

### **HBCU Support**

Rep. Alma Adams said it's merely a coincidence that she's revving up her activity on historically black colleges and universities next week at the same time President Donald Trump is scaling back his. "Some spokesperson in the White House made some comment that we were doing this to outshine the president," Adams said. "That's not the case." Not that Adams is worried about what the White House thinks. The Charlotte Democrat has emerged as a chief critic of a stalled black college initiative that Trump launched with great fanfare in February, and she has staked out space on Capitol Hill as a go-to advocate for the nation's 100-plus historically black colleges and universities.

Adams was one of the first congressional lawmakers to call for the administration to postpone a White House conference on black colleges next week, noting last month that Trump hasn't delivered on promises he made in an HBCU executive order that he signed in February. Trump vowed to move the HBCU portfolio out of the Department of Education and into the White House and appoint an executive director to oversee it. No one has yet been named. Adams also noted that Trump's comment that "both sides" were responsible for August's deadly rally in Charlottesville, Va., organized by neo-Nazis and white supremacists, would also make some black college presidents and chancellors uncomfortable at the White House.

The White House initially balked at Adams' postponement call, which was echoed by the Congressional Black Caucus, the United Negro College Fund, the Thurgood Marshall College Fund and others. Omarosa Manigault-Newman, director of communications for the White House's Office of Public Liaison, told McClatchy last month that Trump's "commitment to the HBCU community remains strong and unwavering" and the registration for the conference "is currently at capacity." But the White House has significantly scaled back an annual gathering of the nation's historically black colleges presidents and advocates next week after a series of potentially offensive actions by

Trump, including his much maligned statement this summer on the deadly race-fueled rally in Charlottesville.

Organizers worried some presidents would not attend and students would protest the event that was initially scheduled to be held at a hotel just outside the nation's capital, according to three people familiar with the situation. Instead, the summit will be held Sunday and Monday at the White House complex, where only invited guests who undergo a background check are allowed to attend. At the summit, the White House is expected to announce a long-awaited executive director for the White House Initiative on HBCUs, a new federal employee who will work on HBCU issues at the Department of Education, and appointees to the president's Advisory Board, according to several sources familiar with the announcement. Trump, who will be in New York for the United Nations General Assembly meeting, is not expected to attend. While the White House has downsized its HBCU event, Adams and the black caucus are hosting their first-ever HBCU brain trust in Washington during the caucus's annual legislative week.

The black lawmakers have organized a day on Capitol Hill next week for HBCU presidents to meet with House and Senate Democrats; a luncheon with black college leaders and corporate executives; a session to celebrate the 150th anniversary of nine black colleges, including North Carolina's Johnson C. Smith University, Barber-Scotia College, Fayetteville State University, and Washington, D.C.'s Howard University.

Adams' interest in black colleges is personal. She earned her bachelor's and master's degrees from North Carolina A&T State University in 1968 and 1972 before earning a Ph.D at Ohio State University. She taught at art at Bennett College, an HBCU in Greensboro, N.C., for 40 years.

"What they did for me, to even take me in when I was not fully academically prepared when I left high school in New Jersey, that's what HBCUs do," she said. "They see the potential in students, they want to provide that opportunity." (William Douglas and Anita Kumar, MCCLATCHY WASHINGTON BUREAU, 9/15/17).

## **Principal Pay**

Veteran principals could see pay cuts of \$10,000 or more because North Carolina is changing the way it pays them, prompting concerns that some of the state's most experienced school leaders will retire early to avoid a smaller salary.

As part of the Republican-led General Assembly's efforts to change public education, this year the state changed from paying principals based on their education experience to giving principals bonuses based on how their students do on exams. Many younger principals will see raises this year, but veteran principals could see pay cuts down the road. Supporters say the new plan provides a needed increase for underpaid principals while putting a focus on improving how students perform. But critics worry the change will discourage principals from working at struggling schools and lead to veteran principals retiring.

Lawmakers agreed to make sure that no principals saw pay cuts this school year. But that "hold harmless" budget provision expires at the end of June. "We like what we do," Matt Wight, 57, principal of Apex Friendship High School in Apex, said in an interview this week. "We run pretty good schools. We've got some productive years left, but we're not going to do it for \$30,000 less." Sen. Jerry Tillman, R-Randolph, praised the new system as being a better way to pay principals. But Tillman, a retired school administrator, said he thinks lawmakers will make some tweaks to the program, including extending the "hold harmless" language. "Principals need to be at ease about that," said Tillman, Senate majority whip. "We're not going to have any principals take a dramatic pay cut. We'll take the hold harmless as far as we need to take that."

In 2016, North Carolina's average base salary of \$64,209 a year for principals put the state near the bottom on national rankings. A joint legislative study committee co-chaired by Tillman called for changes in the salary schedule. For years, North Carolina paid principals based on their years of experience, whether they had advanced degrees and how many teachers were at their school. Local school districts often supplement what the state provides.

But the state dropped experience and degrees from the new pay scale, which is now based solely on how many students attend a principal's school. Principals can now also make up to \$15,000 a year in bonuses depending on whether their students show growth on state exams. The state raised the bottom of the pay scale from \$52,656 a year to \$61,751. But the state also lowered the top of the scale from \$111,984 a year (not including longevity pay) to \$88,921.



The new scale, not including bonuses, could raise the average pay for principals to more than \$71,000 a year. The state is providing an additional \$35.4 million this year to pay principals and assistant principals. In recent years, state lawmakers have also started new performance-based bonuses for teachers and provided bigger raises for younger teachers. But teachers are still paid based on their experience.

"Those principals who are in low-performing schools, it is going to be almost impossible for us to find principals who would even want to take on that challenge because eventually they're going to lose salary based on this model," Amanda Bell, an adviser to the state board, said at last week's meeting.

A.L. Collins, vice chairman of the state board, gave anecdotes of veteran principals in the Winston-Salem/Forsyth County school system who are considering early retirement because they are facing a 30 percent pay cut. "I just cannot imagine that the people over at the General Assembly intended for this result to take place," Collins said at the meeting. "I just cannot imagine the unintended consequences of all this as folks try to figure out where they need to move in order to make the most amount of money. I just feel for the principals."(T. Keung Hui, THE NEWS & OBSERVER, 9/15/17).

### **Blue Cross Agreement**

Here's something Blue Cross Blue Shield of North Carolina and Mission Health agree on: There is no sign of an agreement on a new contract between the insurer and the health system. Mission President and CEO Ron Paulus says the status of negotiations between the state's largest insurer and Western North Carolina's largest health care provider is "basically nowhere" because there are no negotiations. The agreement between the two ends Oct. 5, meaning the 260,000 people in WNC who are insured by Blue Cross will have to pay higher "out-of-network" rates if they get care from Mission facilities and providers in many situations.

Mission Health employs a little more than one in five of the physicians working in the mountains, operates seven hospitals in the region and many other health care facilities. Its officials say there are not enough physicians and other providers in WNC to take care of all of Blue Cross's customers in some communities and some medical specialties. Blue Cross disagrees. Spokesman Austin Vevurka said the insurer is "committed to making sure our customers are able to get the care they need" and is working now to match customers with other providers.

Mission notified Blue Cross July 5 that it was terminating its contract with Blue Cross, saying several months of negotiations over a new one had not yielded an agreement. Health system officials say if they had not taken that step, the existing contract would obligate Mission to continue to care for people insured by Blue Cross at current rates indefinitely. Paulus says Mission can't afford to do that because its costs of labor, equipment and medications are all rising. But Blue Cross says it won't negotiate with Mission unless the health system rescinds its termination notice. Customers would be confused if Blue Cross continued to negotiate a new contract with a provider while also encouraging customers to find different medical practices and facilities in case there is no agreement, Blue Cross officials say. So, while both sides have to varying degrees communicated with their customers -- Blue Cross launched a significant advertising campaign -- they are not talking to each other about a new agreement.

The basic question at issue is how much Blue Cross will pay Mission for care Mission gives to the insurer's customers. Blue Cross officials say they want reimbursement rates to stay the same in the first year of any new contract. Mission officials have not been specific about their demands, saying their current agreement with Blue Cross limits what they can say, but they have talked about the need for an increase in the mid- single digits on a percentage basis. Industry experts say most contract disputes between insurers and health systems like Mission are resolved before the public becomes aware of them. Some of the rest are settled before the old contract expires, some last for months afterward.(Mark Barrett, ASHEVILLE CITIZEN-TIMES, 9/17/17).

### **Truthfulness Policy**

When state auditors asked whether troopers with long commutes violated the State Highway Patrol's residency policy, most of the officers targeted initially denied the long round trips, according to an audit report released last week. The troopers told auditors they kept secondary homes closer to their posts, but the audit turned up gas receipts near far-flung homes along one-



way commutes that, in five cases, topped 100 miles. One captain lived in Morganton, 187 miles from his job in Wake County, and gassed up there 44 times in 2016, the audit found. Eight unnamed troopers are cited and the report says the majority of them initially denied their long commutes but "ultimately acknowledged commuting to their primary residences." Which suggests a question: Did these troopers violate the patrol's truthfulness policy? In the past, that has been a fireable offense.

Highway Patrol spokesman Sgt. Michael Baker would say only that the agency "will make a determination as to whether there have been violations of the Patrol's truthfulness policy and will address violations, if any, accordingly." Baker declined to lay out a timetable for the determination, but audit results were delivered to patrol leadership about three weeks ago, in a letter dated Aug. 22.

The audit doesn't address the truthfulness policy. The State Auditor's Office doesn't have an opinion as to whether the truthfulness policy was violated, spokesman and general counsel Tim Hoegemeyer said in an email. The agency's truthfulness policy is fairly straightforward: "Members shall be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information."

Top leadership at the Highway Patrol has turned over since last year, which was the period reviewed by the State Auditor's Office. New Public Safety Secretary Erik Hooks said in his formal audit response that both he and new patrol commander, Col. Glenn McNeill, agree with the audit's conclusions, that each trooper in the report is now in compliance and that most of the suggestions auditors made have been implemented. (Travis Fain, WRAL NEWS, 9/16/17).

## **Shoplifting Crackdown**

Websites have accelerated increasingly sophisticated organized retail theft rings, which have long relied on shoplifters known as "boosters" clearing store shelves of in-demand goods and then selling and re-selling to higher levels of fences who deal in truckloads of stolen property. Now the rings can sell shoplifted bottles of aspirin, infant formula or jeans in the same virtual marketplaces where legitimate items are sold. Investigators are also seeing more of what they call "e-fencing," where fences sell store merchandise credit or gift cards obtained by returning stolen goods.

"There's a lot of them out there," said Raleigh police Sgt. Scott Womack. "People can outsource stolen property very quickly that way."

The cost to retailers is estimated at \$30 billion a year, a cost ultimately passed along to shoppers. But customers risk being hurt by more than higher prices. Expired or improperly stored medicine and infant formula often end up back on shelves, putting people's health at risk. And then there's the chance that people are shopping next to drug-addicted thieves.

"All of that goes into a big safety risk for consumers," said Womack, who serves on the board of the Carolinas Organized Retail Crime Alliance. "That's obviously the biggest concern for us is the safety of the general public." North Carolina has begun to address the problem. The legislature enacted a new law this year that cracks down on organized retail theft. Retailers and law enforcement have also banded together to track the crime, and next week in Durham will hold their second annual statewide conference.

"There's not a retailer who isn't affected," said Andy Ellen, president and general counsel of the N.C. Retail Merchants Association. "For a long time, because it was not a crime against a person, it was not robbing a bank, it was not in the forefront. Law enforcement has taken a much more renewed interest."

Once thought of as merely a isolated shoplifting offense, law enforcement has come to understand the sophistication and far-reaching effects of these operations. The increased attention is due, in part, to the recognition that many of the boosters are stealing to pay for their opioid addictions. The increase in opioid abuse was one of the forces behind the new law, Womack said.

Womack worked with legislators to update the law for the first time in about a decade to make it easier to prosecute suspected stolen property ring members and to increase penalties on them if convicted. (Craig Jarvis, THE NEWS & OBSERVER, 9/14/17).

## **Pipeline Review**

Environmental regulators in North Carolina say they need more information and more time to evaluate the water quality implications of the Atlantic Coast Pipeline. Officials with the Department

of Environmental Quality sent a letter Thursday to developers of the proposed natural gas pipeline that would cross West Virginia, Virginia and North Carolina. They asked for more information, including site-specific details on a restoration plan for all stream crossings, as they evaluate whether to issue a water quality permit. A decision had previously been expected by Sept. 19. Pipeline spokesman Aaron Ruby says requests for additional information are a common part of the regulatory process and the information will be provided promptly. Opponents of the pipeline applauded the announcement, saying it will lead to more thorough review.(THE ASSOCIATED PRESS, 9/15/17).

### **Funding Freeze**

State officials announced Thursday that FEMA has frozen money from its Public Assistance and Hazard Mitigation Grant programs for those municipalities and counties impacted by Hurricane Matthew. The decision was made due to the more immediate needs of victims from Hurricanes Harvey and Irma, the Governor's Office said in a news release.

That means the approximately \$134.5 million in funding eligible in the Public Assistance program for the state's ongoing recovery from Matthew is suspended until further notice from the Federal Emergency Management Agency. Of that amount, \$67.4 million for 213 local governments Public Assistance projects "are directly impacted." The affected categories include roads, bridges, water control facilities, buildings, equipment, utilities, and parks and recreation.

"Unfortunately, FEMA has suspended payments to North Carolina communities while it handles immediate needs from this year's hurricanes," a spokeswoman for Gov. Roy Cooper said in a separate email. "Everyone in North Carolina is praying for the victims of Harvey and Irma, but as we know from Matthew, storms like these take years to recover from. Governor Cooper is working with our state's members of Congress and FEMA to get the money we were promised for Matthew recovery because we can't walk away before the job is done."

Because of Hurricanes Harvey and Irma, the funding needs to FEMA have changed significantly in the last few weeks. That's the driving force behind FEMA's suspension of the Hurricane Matthew assistance, according to a spokeswoman with N.C. Emergency Management.

The Public Assistance program is a reimbursable program, the Governor's Office said. That means many towns and cities across the state that incurred eligible costs in responding to Hurricane Matthew will not be reimbursed with federal funds until the Disaster Relief Fund is replenished and Immediate Needs Funding is lifted. "We appreciate that urgent effects will be felt resulting from the freezing of the Public Assistance program," the news release said.

Jimmy Keefe, a member of the Cumberland County Board of Commissioners, said nearly \$35 million in FEMA-related funding was anticipated for Cumberland County and city of Fayetteville. The county and city held public hearings on the proposed use of that money, Keefe said, with "a lot of it" designated for community development.

Joe Stanton, the assistant director for recovery with N.C. Emergency Management, said if a repair project is obligated, the money has been deposited by the federal government. "We can draw it down as a project being completed," he said. "If a project is being reviewed or looked at in certain areas, it (the funding) may be held up until the Disaster (Relief) Fund is replenished or such time Congress allows for additional funds."(Michael Futch, THE FAYETTEVILLE OBSERVER, 9/15/17).

### **ECU Demolitions**

Two groups of buildings near the Eastern Carolina University campus have been cleared for demolition as part of the university's renovation plans, an administrator told members of the Board of Trustees' Finance and Facilities Committee Thursday at its regular meeting. The university received approval Wednesday from the N.C. Council of State for the demolition of four university-owned structures on the south side of Dowdy-Ficklen, Bill Bagnell, associate vice chancellor for administration and finance, told the committee members. The structures include the Pirate Club building, two storage buildings and the stadium press box tower.

The removal will facilitate the university's plans to expand the Dowdy-Ficklen press box area on the stadium's south side. "That was one of those issues hanging out there that was kind of holding us up, but not any longer," Bagnell told the committee members. ECU had already purchased and demolished four homes on adjacent Fieldside Street and relocated their residents. The Board of Trustees voted in April 2016 to spend \$1.1 million for that.

Design documents for stadium construction will have additional comments from state construction officials added to them, and designs for a temporary press box will be sent to the construction manager by Oct. 1, with a guaranteed maximum price returned by Nov. 1, with the hope that construction can be started before the end of the calendar year, Bagnell said.(Michael Abramowitz, THE (Greenville) DAILY REFLECTOR, 9/15/17).

### **Stadium Sale**

Winston-Salem's plan to sell Bowman Gray Stadium to Winston-Salem State University could hit a snag when it comes before top state officials for a decision, thanks to the opposition of state Treasurer Dale Folwell to the deal.

Folwell said in an interview last week that he dislikes the plan to sell the stadium in part because it would raise student fees to pay for the deal. "I don't see the need for the state to be in the racetrack business and put millions of dollars of debt on the students," Folwell said, adding that he has fears for the future of racing as well, should WSSU acquire the stadium.

Folwell made his remarks two days after members of the Winston-Salem Finance Committee reviewed a timetable that projects the stadium purchase finally going through in December of 2018, more than five years after the city approved a resolution of intent to sell the stadium to WSSU in 2013.

Some council members are criticizing the delay and a couple have suggested that sale opponents are working behind the scenes to slow the deal. Although Folwell opposed the stadium sale from the beginning, he said last week he had not thought about or discussed the stadium sale for several years, and has not been doing anything to put brakes on the deal. The stadium has long hosted both NASCAR racing and WSSU home football games. One of the last steps in any sale would be approval from the Council of State, which consists of the governor, lieutenant governor and eight elected state officials including Folwell, a Winston-Salem resident who served four terms in the N.C. House, leaving that office in January 2013. Folwell was elected treasurer in 2016.

State Superintendent of Public Instruction Mark Johnson, who formerly served on the Winston-Salem/Forsyth County school board, is also a member of the Council of State. He could not be reached for comment. It's unclear when the matter will come before the Council of State.

The city approved a resolution in 2013 stating its intent to sell the stadium, and the proposal was controversial before and after that vote: Some racing advocates said giving WSSU the keys could threaten the future of racing. The university promised to keep racing in place, and the General Assembly even passed a bill to forbid the renaming of the stadium or any significant alteration in arrangements like free parking that fans have come to expect. Folwell was no longer in office when that bill was filed.

Council member Derwin Montgomery, who favors the sale to WSSU, said last week that Folwell's stance on the Council of State could influence whether the sale goes forward or not.(Wesley Young, WINSTON-SALEM JOURNAL, 9/14/17).

### **Jobless Rate**

North Carolina's unemployment rate was unchanged in August at 4.1 percent, still the lowest jobless rate in almost 17 years. The state's Commerce Department said Friday the jobless rate held solid after falling from 5 percent at the start of the year. The last time North Carolina's unemployment rate was this low was November 2000. The national unemployment number was 4.4 percent in August. The U.S. Bureau of Labor Statistics says North Carolina has seen one of the country's most significant unemployment rate declines in the past year and one of the biggest increases in the number of people working. There were 350 fewer unemployed North Carolina workers between July and August. The past year has seen the number of people on payrolls increase by 2,500 to 4.7 million.(THE ASSOCIATED PRESS, 9/15/17).

### **Shelly Island**

Shelly Island may not be an island anymore -- for now. The massive offshore sandbar that gained national attention -- and a name -- after it formed in the spring has continued to grow until it connects at low tide to Cape Point, which belongs to Cape Hatteras National Seashore. A stream of water maybe 20 feet wide and 6 inches deep flowed between the two land bodies at high tide this week. It was fun while it lasted -- tourism officials believe it helped increase the number of visitors



and seasonal revenue. By late August, the island totaled 27 acres -- just short of a mile long and 450 yards wide with a small dune at one end, said Dave Hallac, superintendent of Cape Hatteras National Seashore.

"There's no question Shelly Island increased the popularity of Cape Point this summer," Hallac said. After effects of Hurricane Irma recently changed Shelly Island's shape and size, Hallac said. The island was not connected to Cape Point earlier in the week, he said.

Virginia businessman Ken Barlow earlier this month filed a quit claim deed asserting ownership of the island, but state and local officials discounted the claim, citing laws that indicate the state of North Carolina owns islands that spring up in state waters. The island now could belong to the National Park Service since it has merged with Cape Point. No matter what happens, the state and the park are discussing joint management of the tract on issues such as dog leash laws and bird-nesting policies, Hallac said. "There is no ownership debate," he said. (Jeff Hampton, THE VIRGINIAN-PILOT, 9/15/17).

### **Boil Water Advisory**

A North Carolina coastal town has lifted a boil water advisory which forced restaurants to shut down. Local media outlets report the advisory issued on Friday for Atlantic Beach came after a sample showed E. coli in the water. Motels and hotels were allowed to stay open as long as they notified guests, shut off water fountains and ice machines, and provide guests with bottled water and hand sanitizer. They also must discontinue continental breakfasts or provide pre-packaged meals. (THE ASSOCIATED PRESS, 9/16/17).

### **Cooper Speech**

Gov. Roy Cooper will travel to Salisbury this week to be the keynote speaker at Livingstone College's fall convocation. It will be Cooper's first official visit to Rowan County since becoming governor. Cooper will deliver the address on Friday inside Livingstone's Varick Auditorium. The program, which will serve as an official induction of the 2017 freshman class, begins at 10 a.m. North Carolina is home to the largest number of four-year, degree-granting historically black colleges and universities in the nation, including three that are celebrating their 150th anniversary this year -- Johnson C. Smith, Barber-Scotia and Fayetteville State. Livingstone is focused on a different anniversary this year --- the 125th anniversary of black college football in America; the first game was played on the front lawn of its Salisbury campus. The governor is expected to proclaim September through November as Commemorative Black College Football Season in North Carolina. (Elizabeth Cook, THE SALISBURY POST, 9/15/17).

### **Carbon Monoxide Death**

Authorities say a carbon monoxide poisoning victim is the first death from Hurricane Irma in North Carolina. Gov. Roy Cooper's office said the man was found dead Tuesday in his Henderson County home. Authorities he was using a generator to power his home after the winds from Irma knocked out electricity. The man's name was not released. (THE ASSOCIATED PRESS, 9/15/17).

### **Oyster Regulations**

New oyster harvest regulations going into effect this year lower the daily commercial trip limit for Shellfish License holders. Harvest of oysters by hand methods from public water bottom will open at sunrise Oct. 15. Those who hold appropriate commercial fishing licenses may harvest oysters between sunrise and sunset, Monday through Friday each week. For those fishing under a commercial Shellfish License, the harvest limit will be reduced to two bushels per person, with a maximum of four bushels per vessel. The Marine Fisheries Commission adopted the changes in February as part of Amendment 4 to the Oyster Fishery Management Plan. (NEWS RELEASE, 9/15/17).

## **Legislative Studies and Meetings**

Items in **RED** are new listings.

**LB:** Legislative Building



**LOB:** Legislative Office Building.

More Information: <http://ncleg.net/LegislativeCalendar/>

### **Tuesday, Sept. 19**

- 1 p.m. | House Select Committee on Judicial Redistricting, 544 LOB.

### **Thursday, Sept. 28**

- **1 p.m. | House Select Committee on Administrative Procedure Laws, 421 LOB.**

### **Friday, Sept. 29**

- 10 a.m. | The North Carolina Courts Commission, 643 LOB.

### **Tuesday, Oct. 3**

- 9 a.m. | The Joint Legislative Oversight Committee on General Government, 544 LOB.

### **Wednesday, Oct. 4**

- 12 p.m. | Session Convenes (House)
- 12 p.m. | Session Convenes (Senate)

## **N.C. Government Meetings and Hearings**

Items in **RED** are new listings.

### **Tuesday, Sept. 19**

- 10:30 a.m. | The Board of Directors Committee of The North Carolina Partnership for Children meets, Homewood Suites by Hilton Greensboro, 201 Centreport Dr., Greensboro. Contact: Yvonne Huntley, [919-821-9573](tel:919-821-9573).
- 12:30 p.m. | The Executive Committee of the Board of Directors of The North Carolina Partnership for Children meets, Homewood Suites by Hilton Greensboro, 201 Centreport Dr., Greensboro.
- 6 p.m. | The N.C. Division of Marine Fisheries holds a public hearing on proposed shellfish leases in Onslow County, North Topsail Beach Town Center, 2008 Loggerhead Court, North Topsail Beach.

### **Wednesday, September 20**

- 3:30 p.m. | The Finance and Audit Committee of the North Carolina State Ports Authority will meet via teleconference, the Board Room of the North Carolina Maritime Building, 2202 Burnett Boulevard, Wilmington.

### **Thursday, Sept. 21**

- 10 a.m. | The N.C. Rules Review Commission meets, Administrative Hearings office, Rules Review Commission Room, 1711 New Hope Church Road, Raleigh.

### **Monday, Sept. 25**

- 6 p.m. | N.C. DMV holds public hearing on assessing fees for administrative review requests, John Chavis Media Center, 505 Martin Luther King Jr. Blvd., Raleigh. Written comments will be accepted at the public hearing and online at [ncdot.gov/about/regulations/rules/](http://ncdot.gov/about/regulations/rules/) through Oct. 3, 2017.

#### **Thursday, Sept. 28**

- 9 a.m. | Board of Directors of the North Carolina State Ports Authority meeting, North Carolina Maritime Building, 113 Arendell St., Morehead City.
- 10:30 a.m. | The Standard Commercial Fishing License Eligibility Board to the N.C. Division of Marine Fisheries meets, N.C. Division of Marine Fisheries' Wilmington District Office, 127 North Cardinal Dr. Extension, Wilmington.

#### **Thursday, Oct. 5**

- TBD | The Golden LEAF Foundation's board meets, TBD. Contact: Jenny Tinklepaugh, [888-684-8404](tel:888-684-8404).
- 9 a.m. | North Carolina Wildlife Resources Commission meets, Wildlife Resources Commission Headquarters Conference Room, 1751 Varsity Drive, NCSU Centennial Campus, Raleigh. Contact: Patricia Smith, [252-726-7021](tel:252-726-7021).

#### **Tuesday, Oct. 10**

- 8:30 a.m. | The Fund Development and Communications Committee of The North Carolina Partnership for Children, Inc. meet, 1100 Wake Forest Road, Raleigh. Contact: Yvonne Huntley, [919-821-9573](tel:919-821-9573).

#### **Monday, Oct. 16**

- 11 a.m. | The Executive Committee of The North Carolina Partnership for Children meets, 1100 Wake Forest Road, Raleigh. Contact: Yvonne Huntley, [919-821-9573](tel:919-821-9573).

#### **Tuesday, Oct. 17**

- 1:30 p.m. | The Accountability Committee of The North Carolina Partnership for Children meets, 1100 Wake Forest Road, Raleigh. Contact: Yvonne Huntley, [919-821-9573](tel:919-821-9573).

#### **Thursday, Oct. 19**

- 10 a.m. | The N.C. Rules Review Commission meets, Administrative Hearings office, Rules Review Commission Room, 1711 New Hope Church Road, Raleigh.

#### **Wednesday, Nov. 8**

- 9 a.m. | Environmental Management Commission meets, Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh.

#### **Thursday, Nov. 9**

- 9 a.m. | Environmental Management Commission meets, Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh.

#### **Tuesday, Nov. 14**

- 12:30 p.m. | The NC Pesticide Board meets, Gov. James Martin Building - N.C. State Fairgrounds, Raleigh.

#### **Thursday, Nov. 16**

- 10 a.m. | The N.C. Rules Review Commission meets, Administrative Hearings office, Rules Review Commission Room, 1711 New Hope Church Road, Raleigh.

#### **Thursday, Dec. 7**

- TBD | The Golden LEAF Foundation's board meets, TBD. Contact: Jenny Tinklepaugh, [888-684-8404](tel:888-684-8404).
- TBD | The NC Wildlife Resources Commission meets, 1751 Varsity Dr., Raleigh.

#### **Thursday, Dec. 21**

- 10 a.m. | The N.C. Rules Review Commission meets, Administrative Hearings office, Rules Review Commission Room, 1711 New Hope Church Road, Raleigh.

#### **Wednesday, Jan. 10**

- 9 a.m. | Environmental Management Commission meets, Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh.

#### **Thursday, Jan. 11**

- 9 a.m. | Environmental Management Commission meets, Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh.

### **N.C. Utilities Commission Hearing Schedule**

Dobbs Building  
430 North Salisbury Street  
Raleigh, North Carolina  
More Information: <http://www.ncuc.commerce.state.nc.us/activities/activit.htm>

#### **Monday, Sept. 18**

- Staff Conference

#### **Monday, Sept. 25**

- Staff Conference

#### **Monday, Oct. 2**

- Staff Conference

#### **Monday, Oct. 9**

- Staff Conference

#### **Monday, Oct. 16**

- Staff Conference

### **Monday, Oct. 23**

- Staff Conference

### **Monday, Oct. 30**

- Staff Conference

## **UNC Board of Governors**

Board Room of the UNC Center for School Leadership Development  
140 Friday Center Drive, Chapel Hill (**remote meeting locations in RED**)  
More Information: <https://www.northcarolina.edu/bog/schedule.php>

### **Friday, Nov. 3**

- TBA | The UNC Board of Governors, C.S.L.D. Building, Chapel Hill.

### **Friday, Dec. 15**

- TBA | The UNC Board of Governors, C.S.L.D. Building, Chapel Hill.

### **Friday, Jan. 26, 2018**

- TBA | The UNC Board of Governors, C.S.L.D. Building, Chapel Hill.

### **Friday, March 23, 2018**

- TBA | UNC Wilmington, Wilmington.

### **Friday, May 25, 2018**

- TBA | The UNC Board of Governors, C.S.L.D. Building, Chapel Hill.

## **N.C. Dept. of Environmental Quality**

The N.C. Dept. of Environment and Natural Resources has a new name - the N.C. Dept. of Environmental Quality. More Information: <http://portal.ncdenr.org/web/guest/home>

### **Wednesday, Dec. 13**

- 9 a.m. | The State Consumer and Family Advisory Committee (SCFAC) meets, Dix Grill, 1101 Cafeteria Dr., Raleigh.

## **Other Meetings and Events of Interest**

Items in **RED** are new listings.

### **Sunday, Sept. 24**



- TBD | The NC Bankers Association hold Young Bankers Conference, Crowne Plaza Asheville Resort, Asheville.

### **Thursday, Sept. 28**

- 7:30 a.m. | Cancer Research Breakfast ACS CAN, Conference Rooms B and C, Comprehensive Cancer Center at Wake Forest Baptist Medical Center in Winston-Salem. Contact Ray Riordan at [ray.riordan@cancer.org](mailto:ray.riordan@cancer.org).

### **Wednesday, Oct. 11**

- 10 a.m. | The Carolinas Air Pollution Control Association hold Technical Workshop and Forum, Hilton Myrtle Beach Resort, 10000 Beach Club Dr., Myrtle Beach.

### **Monday, Nov. 6**

- TBD | The NC Bankers Association hold Women in Banking Conference, Renaissance Charlotte Southpark, 5501 Carnegie Blvd., Charlotte.

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